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**Senate Bill No. 326**

(By Senators Plymale, Prezioso, Laird, Miller, Unger, Wells,  
Boley, Beach and Tucker)

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[Introduced February 20, 2013; referred to the Committee on  
Education; and then to the Committee on Finance.]

**Interim  
Bill**

\_\_\_\_\_  
A BILL to amend and reenact §18B-1A-5 of the Code of West Virginia,  
1931, as amended; and to amend and reenact §18B-2A-3 of said  
code, all relating to institutional operating budgets; the  
West Virginia Network of Educational Telecomputing; requiring  
the Higher Education Policy Commission and Council for  
Community and Technical College Education to propose  
procedural rules by certain date; specifying prior approval by  
Legislative Oversight Commission on Education Accountability;  
setting forth goals and objectives for state institutions of  
higher education and specifying procedures for measuring  
attainment; designating a pilot year and requiring certain  
reports; specifying percentages of operating budgets to be  
applied to outcomes-based funding annually and designating  
total percentages; requiring establishment of legislative

1 committee to advise in developing procedural rules;  
2 collecting, synthesizing and disseminating data from state  
3 institutions of higher education; directing institutional  
4 boards of governors to cooperate in certain data-related  
5 operations; and providing certain privacy protections.

6 *Be it enacted by the Legislature of West Virginia:*

7 That §18B-1A-5 of the Code of West Virginia, 1931, as amended,  
8 be amended and reenacted; and that §18B-2A-3 of said code be  
9 amended and reenacted, all to read as follows:

10 **ARTICLE 1A. COMPACT WITH HIGHER EDUCATION FOR THE FUTURE OF WEST**  
11 **VIRGINIA.**

12 **§18B-1A-5. Financing; institutional operating budgets, additional**  
13 **funding.**

14 (a) The commission and council each has the responsibility to  
15 develop a budget for the state system of higher education under its  
16 respective jurisdiction. The commission submits the budget request  
17 for higher education, including the budget request as developed by  
18 the council, to the Governor before ~~the~~ September 1, annually. The  
19 budget requests of the commission and the council specifically  
20 shall include the amount of the institutional operating budgets, as  
21 defined in section two, article one of this chapter, required for  
22 all state institutions of higher education under their respective  
23 jurisdictions. The budget appropriation for the state systems of

1 higher education under this chapter and other provisions of the law  
2 shall consist of separate control accounts or institutional control  
3 accounts, or some combination of these accounts, for appropriation  
4 of institutional operating budgets and other funds. The commission  
5 and council each is responsible for allocating state appropriations  
6 to supplement institutional operating budgets in accordance with  
7 this section. In addition to the institutional operating budget  
8 and incentive funding, however, the commission and council each is  
9 responsible for allocating funds that are appropriated to it for  
10 other purposes.

11 (b) By July 1, 2013, the commission and council each shall  
12 promulgate a procedural rule pursuant to the provisions of article  
13 three-a, chapter twenty-nine-a of this code setting out a procedure  
14 to govern appropriation requests pursuant to this section.

15 (1) The procedural rules may not be implemented without prior  
16 approval of the Legislative Oversight Commission on Education  
17 Accountability.

18 (2) Any change the commission or council proposes to the rules  
19 required by this subsection after the initial approval and  
20 adoption, including amendment or repeal, require prior approval by  
21 the Legislative Oversight Commission on Education Accountability.

22 (c) The procedural rules shall establish formulae that take  
23 into consideration different institutional missions and measures

1 each institution's success in accomplishing certain goals,  
2 including, but not limited to, the following:

3 (1) Student success as represented by certificate or degree  
4 completion;

5 (2) Student progression and persistence towards certificate or  
6 degree completion;

7 (3) Affordability and productivity represented by on-time  
8 certificate or degree completion;

9 (4) Institution differentiation as represented by a mission  
10 focus on research, job placement, workforce training, etc.;

11 (5) Educating priority populations of adult and low-income  
12 students; and

13 (6) Increasing certificates or degrees in high need fields.

14 (d) The procedural rules shall establish appropriate weights,  
15 based on student numbers, to be assigned to each of the goals set  
16 forth in subsection (c) of this section. The appropriate weights  
17 shall be established to accomplish best the goal of an additional  
18 20,000 certificates or degrees earned in the state system of higher  
19 education by July 1, 2018.

20 (e) The formulae established by the procedural rules shall be  
21 used in a pilot project for the fiscal year beginning on July 1,  
22 2013, to determine what changes in request for appropriations from  
23 general revenue to each institution would have been made for that

1 fiscal year.

2       (1) For the pilot year the formulae shall assume that a total  
3 of five per cent of the appropriations from general revenue for the  
4 previous fiscal year would be reallocated among the institutions in  
5 the state system of higher education based on the objectives  
6 achieved by each institution within the broad goals set out above.

7       (2) The results of this application of the formulae for the  
8 pilot year shall be reported to each institution and to the  
9 Legislative Oversight Commission on Education Accountability.

10       (f) For the fiscal year beginning on July 1, 2014, the  
11 formulae shall be used by the commission and council in their  
12 respective appropriation requests to reallocate among the  
13 institutions of higher education under their jurisdiction five per  
14 cent of the appropriations from general revenue in the prior fiscal  
15 year. In each successive fiscal year the appropriation request  
16 shall reallocate an additional five percent of general revenue  
17 based on the appropriate formula until a total of twenty-five per  
18 cent of reallocation is included in the appropriation request for  
19 each succeeding fiscal year.

20       (g) The President of the Senate and the Speaker of the House  
21 of Delegates jointly shall appoint a select committee for  
22 outcomes-based formulae rules finalization which shall advise the  
23 commission and council on promulgation of the procedural rules

1 required by this section. The select committee periodically shall  
2 advise the commission and council on amendments to the formulae and  
3 procedural rules considered necessary to advance the goals set out  
4 in this section.

5 (h) The commission and council may not request an increase in  
6 appropriations under this section for any institution without an  
7 approved compact pursuant to section seven, article one-d of this  
8 chapter.

9 **ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.**

10 **§18B-2A-3. Supervision of governing boards; promulgation of rules;**  
11 **data collection and dissemination.**

12 (a) The governing boards are subject to the supervision of the  
13 commission or the council, as appropriate, except in those  
14 instances where specific statutory exceptions are granted by law to  
15 the governing boards of Marshall University and West Virginia  
16 University.

17 (b) The governing boards of all state institutions of higher  
18 education are subject to the provisions of law that relate to the  
19 administration of personnel matters including, specifically,  
20 articles seven, eight, nine and nine-a of this chapter and to rules  
21 promulgated and adopted in accordance with these provisions.

22 (c) The Chancellor for Higher Education and the Chancellor for  
23 Community and Technical College Education, under the supervision of

1 their respective boards, are responsible for the coordination of  
2 policies, purposes and rules of the governing boards and shall  
3 provide for and facilitate sufficient interaction among the  
4 governing boards and between the governing boards and the State  
5 Board of Education to meet the goals and objectives provided in the  
6 compacts and in section one-a, article one and article one-d of  
7 this chapter.

8 (d) The governing boards and the State Board of Education  
9 shall provide all information requested by the commission and the  
10 council, whether the request is made separately or jointly, in an  
11 appropriate format and in a timely manner.

12 (1) Each governing board shall cooperate with the West  
13 Virginia Network for Educational Telecomputing (WVNET) in designing  
14 appropriate interfaces with the databases of institutions under its  
15 jurisdiction and shall grant WVNET direct access to these  
16 databases.

17 (2) WVNET, on behalf of the commission or council or both,  
18 shall generate reports from the data accessed for the purposes set  
19 forth in section five, article one-a and sections eight and ten,  
20 article one-d of this chapter.

21 (3) All data accessed or received from an institution shall be  
22 treated in a manner consistent with the privacy protections  
23 outlined in section ten, article one-d of this chapter.

NOTE: The purpose of this bill is to establish a process for making appropriation requests for the state system of higher education based on progress toward meeting established objectives and to establish a process for collecting and sharing data between WVNET and state institutions of higher education.

§18B-1A-5 is substantially rewritten; therefore, strike-throughs and underscoring have been omitted.

Strike-throughs indicate language that would be stricken from the present law; and underscoring indicates new language that would be added.

This bill was recommended for introduction and passage during the Regular Session of the Legislature by the Select Committee on Outcomes-Based Funding Models in Higher Education.